

1
2 Dr. Lage felt the fines should be higher.

3
4 Mr. Tellechea explained the guidelines are used for formal and informal hearings. He said
5 mitigating factors can be used to lower the penalty and aggravating factors can be used to
6 increase the penalty. Absent mitigating or aggravating factors, the Board is bound by the
7 disciplinary guidelines.

8
9 Dr. Orr felt the current language allowed for that flexibility.

10
11 Mr. Mullins felt strongly that a physician guilty of this type of violation should not receive a
12 \$1,000 fine.

13
14 Dr. Lage suggested just changing the fine amounts.

15
16 A motion was made, seconded and carried unanimously to recommend adopting the proposed
17 language with an increase in the fine for first offense to make it \$5,000 – \$10,000 and \$7,500 –
18 \$10,000 for second offense.

19
20 A motion was made, seconded and carried unanimously to find the proposed changes to the rule
21 would not have an adverse impact on small business nor will it be likely to directly or indirectly
22 increase regulatory costs to any entity in excess of \$200,000 in the aggregate in Florida within
23 one year after the implementation of the rule amendments.

24
25 **Action taken:** proposed rule approved with changes to fine; no statement of estimated regulatory
26 costs (SERC) required

27
28 **Rule 64B8-8.015, FAC – Mediation.....3**

29 The Committee considered a proposal from the Department of Health regarding mediating
30 complaints. Mr. Tellechea explained the Department would like the Board to include more
31 violations in the rule that can be handled by mediation. This would free resources to handle the
32 more serious violations. He said the full Board would have a discussion on this matter on
33 Saturday. Mr. Tellechea stated this would need to be presented to the Physician Assistant
34 Council as well.

35
36 A motion was made, seconded and carried unanimously to recommend authorizing Mr.
37 Tellechea to open this rule for development.

38
39 **Action taken:** authorized to open rule for development

40
41 **Rule 64B8-8.017, FAC – Citation Authority4**

42 The Committee considered a proposal from the Department of Health regarding the use of
43 citations to resolve complaints. . Mr. Tellechea explained the Department would like the Board
44 to include more violations in the rule that can be handled by citation. This would also free
45 resources to handle the more serious violations. He said the full Board would have a discussion
46 on this matter also on Saturday. Mr. Tellechea stated this would need to be presented to the
47 Physician Assistant Council as well.

1 A motion was made, seconded and carried unanimously to recommend authorizing Mr.
2 Tellechea to open this rule for development.

3
4 **Action taken:** authorized to open rule for development

5
6 **Rule 64B8-9.0131, FAC – Training Requirements for Physicians Practicing in a**
7 **Pain-management Clinic5**

8 At the last meeting, the Committee agreed to extend the deadline for completing CME necessary
9 to qualify physicians to practice in pain management clinics if not board certified. The
10 Committee reviewed the draft proposed language that would extend the deadline to July 1, 2012.

11
12 Mr. Tellechea explained the following language would be removed from the rule:
13 *within six months of the effective date of this rule*

14
15 A motion was made, seconded and carried unanimously to recommend approving the proposed
16 draft language.

17
18 A motion was made, seconded and carried unanimously to find the proposed changes to the rule
19 would not have an adverse impact on small business nor will it be likely to directly or indirectly
20 increase regulatory costs to any entity in excess of \$200,000 in the aggregate in Florida within
21 one year after the implementation of the rule amendments.

22
23 **Action taken:** proposed language approved; no SERC

24
25 **Rule Repeals6**

26 Mr. Tellechea explained the Board went through an Office of Fiscal Accountability and
27 Regulatory Reform (OFARR) rule review last year. As a result, he prepared a list of rules that
28 need to be repealed because the Board has no authority for the rules, the rules are repetitive of
29 what is already in statute or the rule is no longer necessary. He said he also ran these rules by
30 Dr. Winchester before submitting to OFARRR.

31
32 **Rule 64B8-1.003, FAC – Orders** - No statutory authority for rule; federal law requires Final
33 Orders be reported to the Healthcare Integrity Protection Data Bank.

34
35 A motion was made, seconded and carried unanimously to recommend repealing the rule.

36
37 A motion was made, seconded and carried unanimously to find the proposed changes to the rule
38 would not have an adverse impact on small business nor will it be likely to directly or indirectly
39 increase regulatory costs to any entity in excess of \$200,000 in the aggregate in Florida within
40 one year after the implementation of the rule amendments.

41
42 From this point on, the Committee reviewed each rule then made one motion for all.

43
44 **Rule 64B8-2.003, FAC – Use of Acupuncture – Unnecessary rule**

45
46 **Rule 64B8-3.009, FAC – Unlicensed Activity Fee – Repeats what is already in statute**

47
48 **Rule 64B8-4.016, FAC – Endorsement Application Deadline – No longer applicable**

1 Rule 64B8-5.004, FAC – Examination Application Deadlines – No longer applicable

2
3 Rule 64B8-5.005, FAC – Reexamination – No longer applicable

4
5 Rule 64B8-8.005, FAC – Prescriptions to Correct Refractive Error – Required by statute

6
7 Rule 64B8-8.008, FAC – Random Blood and Urine Testing – Mr. Tellechea discussed with PRN
8 and PSU and this rule is not used and the Board has no rulemaking authority

9
10 Rule 64B8-9.005, FAC – HIV/AIDS: Knowledge of Antibody Status; Action to be Taken -
11 No rule making authority and not necessary

12
13 Rule 64B8-9.0075, FAC – Standards of Practice in Certain Office Settings – No longer necessary

14
15 Rule 64B8-9.010, FAC – Interpretation of Diagnostic Imaging Tests or Procedures – No
16 rulemaking authority

17
18 Rule 64B8-9.011, FAC – Itemized Patient Billing – No rulemaking authority

19
20 Rule 64B8-13.007, FAC – Continuing Education Credit for Physicians Volunteering for FMLE
21 Comparison Study – No longer necessary

22
23 Rule 64B8-35.001, FAC – Purpose (related to ARNP's) – Repeats what is already in statute

24
25 A motion was made, seconded and carried unanimously to recommend repealing the rules
26 discussed.

27
28 A motion was made, seconded and carried unanimously to find the proposed changes to the rule
29 would not have an adverse impact on small business nor will it be likely to directly or indirectly
30 increase regulatory costs to any entity in excess of \$200,000 in the aggregate in Florida within
31 one year after the implementation of the rule amendments.

32
33 **Action taken:** Rules repealed; no SERC

34
35 **Legislative Discussion:**

36 **SB 1014, SB 788, SB 718, HB 1267, HB 261 – Health Care7**

37 These bills are similar and do the following, among other things:

- 38 ■ Requires health care practitioners to wear a name tag that identifies their credentials
39 ■ Allows the Board of Optometry to adopt rules for the administration and prescription of ocular
40 pharmaceutical agents
41 ■ Expands scope of practice for ARNP's and optometrists

42
43 Christopher Nuland, Esquire, representing the American College of Physicians, addressed the
44 Committee regarding the bills to assist in clarifying some questions.

45
46 A motion was made, seconded and carried unanimously to recommend opposing these bills.

47
48 **Action taken:** oppose

1 **SB 1316, HB 1091, HB 653, SB 208, SB 1884 – Health Care8**

2 These bills are modifications to SB 1986 that DOH worked with legislative staff on.. Mostly this
3 bill impacts AHCA but modifies provisions for which DOH shall not issue or renew licenses.

4
5 A motion was made, seconded and carried unanimously to recommend supporting these bills.

6
7 **Action taken:** support

8
9 **HB 1069, SB 1328 – Damages for Medical/Health Care Services9**

10 These bills enact provisions related to damages for medical or health care services.

11
12 A motion was made, seconded and carried unanimously to recommend remaining neutral these
13 bills.

14
15 **Action taken:** neutral

16
17 **HB 1007, HB 1265 – Motor Vehicle Insurance10**

18 These bills would require the Department of Health, in conjunction with the Boards, to develop a
19 list of diagnostic tests that are deemed not medically necessary.

20
21 Ms. Tootle explained the Department developed this list in 2003, but this would require
22 additional rulemaking by the Department. She also said there was another version, HB 119.

23
24 A motion was made, seconded and carried unanimously to recommend remaining neutral these
25 bills.

26
27 **Action taken:** neutral

28
29 **SB 1438, HB 857 – Prescription Labeling11**

30 These bills would require specific information be included on prescriptions including a legible,
31 clear statement of the purpose for which the drug is being prescribed.

32
33 Due to privacy issues, a motion was made, seconded and carried unanimously to recommend
34 opposing these bills.

35
36 **Action taken:** oppose

37
38 **HB 1329 – Health Care Consumer Protection12**

39 These bills require certain health care providers and facilities to provide a list of costs for
40 medical services to patients and also provide grounds for discipline for physicians that fail to
41 comply.

42
43 Christopher Nuland, Esquire, representing the American College of Physicians, addressed the
44 Committee and urged them to oppose the bill.

45
46 After discussion, a motion was made, seconded and carried unanimously to recommend
47 opposing these bills.

48
49 **Action taken:** oppose

SB 1506, HB 385, SB 614 - Medical Malpractice13

These bills enact provisions related to sovereign immunity and provisions for opting out.

Mr. Mullins suggested handling SB 1506 and HB 385 together since they are similar.

A motion was made, seconded and carried unanimously to support these bills.

Mr. Mullins said SB 614 adds provisions for optometrists, including sovereign immunity and expansion of scope of practice.

Mr. Nuland addressed the Committee and advised the Board previously opposed this bill.

A motion was made, seconded and carried unanimously to recommend opposing this bill.

Action taken: support SB 1506 and HB 385; oppose SB 614

SB 1594, HB 1311 – Surgical First Assistants14

These bills would enact regulation of Surgical First Assistants. Ms. Tootle explained this would be a new profession under the Board of Medicine.

Dr. Nuss stated this profession needs regulation and he strongly supported this bill

A motion was made, seconded and carried unanimously to recommend supporting this bill.

Action taken: support

Update to SB 594

Ms. Tootle stated this bill, which would expand the Department’s authority to issue emergency orders. She said there was a companion bill, HB 1143; however, these bills might not move forward.

Update to SB 904

Ms. Tootle said this bill (and HB 915, SB 1198) all concern controlled substances, a continuation of HB 7095 from the 2011 Session. She said the bill provides more exemptions to registration as a pain-management clinic, adds to the definition of chronic non-malignant pain and clarify other related issues. She said this was not the final version as the Senate passed 14 amendments to the bill.

Discussion Items:

Robert Burns, M.D. vs. Board of Medicine15

Mr. Tellechea explained this was the rule challenge discussed earlier in the meeting where the physician challenged community service in the disciplinary guidelines.

No action necessary.

Tattoo Law and Rule 64B8-2.002, FAC.....16

1 Mr. Tellechea explained law passed enacting new tattoo laws and authorizing the Department of
2 Health to adopt rules implementing the law. He asked the Committee to authorize him to repeal
3 the Board's rule regarding supervision of tattoo artists.

4
5 A motion was made, seconded and carried unanimously to recommend authorizing Mr.
6 Tellechea to repeal the rule.

7
8 A motion was made, seconded and carried unanimously to find that repealing this rule would not
9 have an adverse impact on small business nor will it be likely to directly or indirectly increase
10 regulatory costs to any entity in excess of \$200,000 in the aggregate in Florida within one year
11 after the repeal of the rule.

12
13 **Action taken:** authorized Mr. Tellechea to repeal the rule, no SERC

14
15 The meeting adjourned at 4:47 p.m.